

CARPENTER, J.

Introduction

Before this Court is the Motion to Dismiss filed by Raphael Williams, Sgt. Mary Moody and Paul Howard (collectively, the “Defendants”). Upon review of the record in this matter, this Court hereby grants the Motion.

Facts

While incarcerated, Christopher E. Walls (“Mr. Walls” or the “Petitioner”) was detained at the Howard R. Young Correctional Institution (“HRYCI”). During this time, the Petitioner filed 52 grievances pursuant to the Bureau of Prisons Policy 4.4 (“Policy 4.4”), which is the appropriate grievance procedure for HRYCI inmates. The Petitioner has filed a Petition for Writ of Mandamus (the “Petition”), stating his grievances are being denied by the Defendants under a guise of “security reasons” and seeking this Court to direct the Defendants to comply with Policy 4.4. The Defendants filed this Motion to Dismiss the Petition (the “Motion”) indicating a mandamus is not the appropriate tool to enforce discretionary acts such as the policies within Policy 4.4. The Court agrees.

Standard of Review

A motion to dismiss must be decided solely upon the allegations set forth in the complaint.¹ In determining the merits of a motion to dismiss pursuant to Rule 12(b)(6), the Court must accept all allegations within the complaint as true.² If a plaintiff may recover under any reasonably conceivable set of circumstances, a motion to dismiss must be denied.³ Only if the plaintiff could prevail under no set of facts inferred from the pleadings may the Court dismiss the complaint for lack of merit, as a matter of law or fact.⁴ In deciding a motion to dismiss with respect to a petition for a writ of mandamus, the Court must consider the standards a party must meet in obtaining the writ.⁵

¹*See Growbow v. Perot*, 539 A.2d 180, 187 (Del. 1988).

²*State Use of Certain-Teed Products Corp. v. United Pacific Ins. Co.*, 389 A.2d 777, 778 (Del. Super. Ct. 1983).

³*Kofron v. Amoco Chems. Corp.*, 441 A.2d 226, 227 (Del. 1982).

⁴*Diamond State Tel. Co. v. Univ. of Del.*, 269 A.2d 52, 58 (Del. Super. Ct. 1970).

⁵*Mell v. New Castle County*, 838 A.2d 141, 145 (Del. Super. Ct. 2003).

Discussion

The issuance of a mandamus falls within judicial discretion and is not a matter of right.⁶ A mandamus may be issued by this Court “to an inferior court, public official, or agency to compel the performance of a duty to which the petition has established a clear right.”⁷ Further, “when directed to an administrative agency or public official, mandamus will issue only to require performance of a clear legal or ministerial duty.”⁸ Thus, a mandamus will not be issued to compel a discretionary act, nor to compel an official to exercise his discretion.⁹ If a petitioner cannot show a clear right to the requested performance of a duty, or if there is any doubt as to a petitioner’s right, a mandamus shall not be issued by this Court.¹⁰ Lastly, with respect

⁶*Guy v. Greenhouse*, 637 A.2d 287 (Del. 1993).

⁷*Clough v. State*, 686 A.2d 158, 159 (Del. 1996).

⁸*Guy*, 637 A.2d at 287 (citing *Capital Education Assoc. v. Camper*, 320 A.2d 782 (Del. Ch. 1974)).

⁹*Id.* (citing *Darby v. New Castle Gunning Bedford Educ. Assoc.*, 336 A.2d 209, 211 (Del. Super. Ct. 1975) (A statute which included the word “agreement” was a statute which intended discretion based on the very nature of the word “agreement.”)); *Defore v. Williams*, 1999 WL 1442003 (Del. Super. Ct.), at *2 (A prisoner has no right of mandamus to obtain copies of policies, grievance procedures or disciplinary rules since 11 Del. C. § 6535 places the discretion in the hands of the Commissioner of the appropriate time and place to allow copies of said documents.).

¹⁰*In the matter of Michael J. Richardson*, 2002 WL 162291 (Del. Super. Ct. 2002) (citing *State ex rel. Lyons v. McDowell*, 57 A.2d 94, 97 (Del. Super. Ct. 1947)) (A prisoner’s right to possess personal items is not absolute and is subordinate to the safety of individuals within the prison.).

to prison policies, a court will only intervene in the limited instance where an inmate's statutory or constitutional rights are affected and a writ of mandamus is not an appropriate tool to merely assure a prison policy is being adhered to.¹¹

Here, Mr. Walls requests a mandamus compelling the Defendants to follow Policy 4.4, but fails to establish he has a clear legal right to enforce this administrative procedure. Policy 4.4 was created pursuant to 11 Del. C. § 6535, which authorizes the Department of Correction ("DOC") to promulgate rules and regulations with respect to the safety and discipline within a correctional facility.¹² Prison policies, such as the one at issue here, are implemented by the DOC pursuant to this legislature's directive since the DOC has the expertise and experience to better manage the day to day activities within the prisons. Courts defer to both the legislature and executive branches with respect to policies within the prison institutions, including discipline guidelines, grievance procedures and the administration of inmates in general.¹³ The Court is not in a position to, nor does it intend to, micro manage the prison systems. The Court's obligation is to simply

¹¹*Ross v. Dep't of Corr.*, 722 A.2d 815, 820 (Del. Super. Ct. 1998).

¹²In pertinent part, 11 Del. C. § 6535 states ". . . the Department shall promulgate rules and regulations for the maintenance of good order and discipline in the facilities and institutions for the Department, including procedures for dealing with violations. . . ."

¹³*Ross*, 722 A.2d at 820.

protect inmates' constitutional or statutory rights, and it will not assume the role of an administrator of the numerous grievances filed by unhappy prisoners.¹⁴ Since the Petitioner does not have a statutory right under Policy 4.4 that could be infringed upon by the Defendants, this Court will not intervene and his Petition will not be granted.

Further, assuming *arguendo*, that the Petitioner has a statutory right under Policy 4.4, this Court has no authority to issue a mandamus to compel discretionary acts. The purpose of Policy 4.4 is to establish a means for inmates to voice concerns in order to reduce tension within the institution. Chapter 4 of the Policy, under which the grievance procedures fall, is titled "Decision-Making Relating to Inmates."¹⁵ The phrase "decision-making" connotes a process which concludes with a choice of one plan of action over another. This title alone indicates the Defendants' discretion while dealing with inmates' grievances, and confirms Policy 4.4 is a set of guidelines, not a strict procedure. Here, it appears some of the Petitioner's grievances were denied because the Defendants labeled them security or safety concerns, which are not grievable according to Policy 4.4. The Court shall not intervene in such decisions nor does the Court have anything to suggest those decisions were made

¹⁴*Id.*

¹⁵Pet. for Extraordinary Writ, Ex. A.

inappropriately. Defendants have no duty or obligation to act as the Petitioner requests, and this Court has no intention to compel the Defendants to do so.

Conclusion

The Petitioner has failed to show infringement of a clear constitutional or statutory right and Policy 4.4 allots discretion in the hands of the DOC when dealing with inmates' grievances. Accordingly, the issuance of a mandamus is legally inappropriate under the circumstances currently before this Court.

For the foregoing reasons, the Motion to Dismiss is hereby GRANTED.

IT IS SO ORDERED.

Judge William C. Carpenter, Jr.